

Testimony by Alan Smith, R Street Institute  
Wednesday, January 15, 2014  
Michigan House of Representatives  
Criminal Justice Committee

Good morning Chairman Heise, Vice chairs Graves and Oakes and members of the Criminal Justice Committee. Thank you for the opportunity to be heard today. I am Alan Smith, and I am Senior Fellow and Midwest Director for the R Street Institute, a national think tank based in Washington, DC, that supports free markets and limited, effective government. We've been engaged on several issues in Michigan during this session having to do with public policy solutions to challenges for Michigan residents, including no fault auto insurance, taxes, addressing the balance of authority between the federal and state governments, and labor law.

As a think tank, we advocate for principles, not particular commercial interests. The first principle pertaining to today's deliberation is that we have way too many crimes. We may have a citizenry that is more prone to violence and more dishonest than we have had in the past, and we have to deal with this; but neither of these underlies Michigan's eighty-plus year old law that criminalizes certain transfers of property having to do with entertainment venues. As former senator and ambassador Daniel Patrick Moynihan famously observed, we started with a few laws and now we have "catalogs of offenses."

The second principle is that good public policy is understandable by the public. When people dole out a portion of their budget for the privilege to attend events they enjoy, it is counterintuitive to imagine that offering up that property, lease, or whatever you call it for resale at whatever price you establish in the marketplace is a crime against the state. Of course, in the overwhelming majority of states, it isn't.

An allied third principle is that good public policy is supported by the general public. What the public supports is the idea that even when an event is sold out, somebody for the right price will let you go in his or her place. For sound public policy, the only question should be who will ultimately find the most value for sitting in that seat. Who among us, after all, has not purchased something with the idea that it might become more valuable at some point, and that we might convert that value by selling it?

We are a free market-oriented public policy organization, so we are not suggesting at all that, for instance, universities shouldn't be allowed to organize their events in a way to assure that their students and alumni get preferences. We support, and you should, anybody's right to draw up agreements that harness the well-traveled law of contracts or property to determine the placement of tickets. We support, and the public clearly understands, that licensees at entertainment venues may be ejected for inappropriate proscribed behavior. None of this however, needs to be backed up by Michigan criminal laws which aren't already on the books to describe what is generally understood to be an offense against the state.

For those of you with backgrounds in economics, you well understand that the markets are much more adept at working out values than are any particular group of officials. I'm sure many of you read that the average secondary market price for the Broncos-Chargers playoff game was higher than for the Panthers-Forty-Niners bout. What is wrong with this?

We do not suggest that the market can forego protection against automated online outright scams and misallocations. Limited, efficient government may also mean that laws targeting fraud may have to be occasionally updated to reflect all the improvisations of electronic age thieves, but the state should be cautious about lawmaking in an area that is essentially a software war.

In summary, we cheer Representative Kelly and Michigan in the desire to join most of her sister states by opening up secondary markets for both individuals who have decided for whatever reason to resell their tickets, and the businesses who have sprung up to organize these marketplaces.

I will be delighted to discuss any of this in more detail, or to answer any questions you may have for me.